

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

SEAN HEISER-MULLINS,

Defendant.

CASE NO. 2:21-CR-198

CHIEF JUDGE MARBLEY

GOVERNMENT'S SENTENCING MEMORANDUM

This defendant previously appeared before the Court and plead guilty to Count 1 of the Information, which charges him with Possession with Intent to Distribute 5 grams or more of Methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1), 841(a)(1)(B) (viii).

The parties recommend to the Court a sentence of imprisonment of 5 years to be followed by a term of supervised release of at least 4 years. We further recommend that the sentence in this case run concurrent to the defendant's sentence in state court, that is, the parties recommend that a prison sentence is imposed in this case and that this prison sentence run concurrent with Franklin County Court of Common Pleas case numbers 17-CR-3579, 18-CR-1559, 19-CR-882, 20-CR-2005. In those cases, the defendant has a release date of February 24, 2030.

Application of the Sentencing Guidelines

The United States Probation Office has completed a Presentence Investigation Report which calculates a guideline range in this case of 57-71 months based upon an offense level 23 and a Criminal History Category VI. This corresponds to a range of 92-115 months. The

defendant also faces a mandatory minimum sentence of 5 years under 21 U.S.C. § 841(a)(1)(B) (viii).

The parties have recommended to the Court that the relevant conduct which gave rise to the Information in this case consisted of at least 5 grams but less than 10 grams of Methamphetamine, which corresponds to an offense level 14 under U.S.S.G. § 2D1.1. We also agree to recommend that the defendant possessed a dangerous weapon, specifically a firearm in connection with this offense, which would result in a 2-level increase under U.S.S.G. § 2D1.1(b)(1). The defendant has accepted responsibility and qualifies for a 3-level reduction under U.S.S.G. § 3E1.1(b). Given this, the parties recommend that the final offense level is 13.

Defendant's Objections

First, Drug Quantity

The defendant objects to the drug quantity as calculated by the PSR in paragraphs 27 and 28. In the plea agreement before the Court for consideration, the parties have made a recommendation to the Court for an amount of relevant conduct of between 5 and 10 grams of methamphetamine. This amount was negotiated by the parties in consideration of all the facts and circumstances of the case. The parties would ask the Court to accept the recommendations in the plea agreement.

Second Objection, Drug Premises Enhancement

The defendant objects that the probation department has recommended that the Court add two additional points under U.S.S.G. § 2D1.1(b)(12) for using a house for the purpose of distributing illegal drugs. In the plea agreement before the Court for consideration, the parties have not recommended this enhancement. Because the enhancement was not contemplated by the

parties, we ask the Court not to add the additional two points. The plea was negotiated by the parties in consideration of all of the facts and circumstances of the case. We would ask the Court to accept the recommendations in the plea agreement.

Third Objection, Fourth and Fifth Objection, Offense Level

In objections three, four and five, the defendant objects to the offense level as calculated in the PSR at paragraphs 35, 39 and 83. The defendant states the guideline range should be 33-41 while recognizing that the defendant faces a mandatory minimum term of 60 months.

Conclusion

For these reasons, the parties recommend to the Court that the defendant be sentenced to 60 months incarceration, to run concurrent with the sentences imposed by the Franklin County Court of Common Pleas.

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UNITED STATES ATTORNEY

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the Government's Sentencing Memorandum was served
this 23rd day of May, 2022 upon counsel for the defendant.

s/Timothy D. Prichard

TIMOTHY D. PRICHARD (0059455)
Assistant United States Attorney